

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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JAGUAR CARS, A Division of the Ford Motor
Company,

Civ. No. 03CV12532RGS

Plaintiff,

- against -

**DECLARATION OF
MITCHELL J. PHILLIPS**

LEE IMPORTED CARS, INC.,

Defendant.

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I, Mitchell J. Phillips, do hereby declare as follows:

1. I am the Global Practice Director for Urban Science Applications, Inc. ("Urban Science"). I have been employed by Urban Science since 1986. I make this affidavit upon personal knowledge.

2. From June 1986 through December 1999, I was the person at Urban Science working on, and primarily responsible for, our account with Jaguar Cars ("Jaguar"). As such, I am familiar with the work that Urban Science did for Jaguar over that period, including but not limited to the types of reports and maps that Urban Science supplied, from time to time, to Jaguar.

3. I have been advised that Christopher J. Lee has submitted to this Court a copy of the Urban Science map of Lee Jaguar's area of responsibility ("AOR") that is also attached hereto as Exhibit 1. This document will hereinafter be referred to as the "Lee AOR Map." I have been advised that Mr. Lee has stated, in an affidavit made "on oath" and "[s]igned under the pains and penalties of perjury," that the Lee AOR Map is "from 1982." I have also been advised that Mr. Lee has used the Lee AOR Map to support his statement that Jaguar provided "AOR maps to Lee dating back to at least 1982."

4. The Lee AOR Map does not date back to 1982. It was not even created in the 1980's. In fact, the Lee AOR Map was created by Urban Science sometime in the 1990's.

5. The 1982 date to which Mr. Lee refers on the Lee AOR Map is the copyright date. The copyright date reflects the year in which Urban Science sought copyright protection for this type of map. The copyright date is not the date on which Urban Science created the Lee AOR Map.

6. The Lee AOR Map has a serial number in the lower left-hand corner ("0043764") which could help to precisely date this map. Unfortunately, this map and the serial number were generated by a computer system and computer program that Urban Science no longer uses. While I have made a search to determine whether Urban Science has any information that would help to date the serial number, it appears that Urban Science no longer has the computer system, the computer program, or the backup tapes for this particular map. It is possible that, in combination with other documents or information, we will ultimately be able to precisely date this serial number. However, we have not yet been able to do so.

7. Nevertheless, for the following reasons I can state from personal knowledge that the Lee AOR Map was not given to Mr. Lee in or about 1982 and was created by Urban Science no earlier than in or about 1993.

8. First of all, the document was generated by a Tektronix 4692 Ink Jet Printer. Urban Science did not start using such a printer until some time in the 1987 time frame. For this reason alone, the document could not have been given to Mr. Lee in 1982, as he claims.

9. Further, Urban Science did not create this type of AOR map for Jaguar in the 1980's. The Lee AOR Map is the type of map that Urban Science creates for a manufacturer or distributor to provide to its dealers to advise the dealer of its assigned AOR. Urban Science did not create such maps for Jaguar until in or about 1993, which was the first time that Jaguar ever assigned Urban Science to create AOR maps for the purpose of assigning AOR's to its dealers.

Signed under the pains and penalties of perjury this 23 day of April, 2004.



Mitchell J. Phillips